

Date: July 10, 2006
To: Federal Trade Commission/Office of the Secretary
From: Raymond W. LaForge, Brown-Forman Professor of Marketing, University of Louisville
Subject: Business Opportunity Rule, R511993

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I am deeply concerned about the Notice of Proposed Rulemaking (NPR) dealing with business opportunities. Although I support Federal Trade Commission (FTC) efforts to prevent fraudulent business practices, these efforts must be focused and regulations should achieve a favorable ratio of benefits to compliance costs. The NPR regarding an expansion of the definition of business opportunities to include direct selling firms dilutes the appropriate focus and requires compliance costs far in excess of any expected benefits from business fraud prevention.

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Mr.¶
Federal Trade Commission¶
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Dear Mr.:¶
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Before presenting specific arguments to support this statement, let me share some professional background information. I have been a marketing professor at major universities for over twenty five years with the past fifteen years as the Brown-Forman Professor of Marketing at the University of Louisville. My major area of concentration has been professional selling and sales management. Because of my professional interests, I became involved with the Direct Selling Education Foundation over twenty years ago. This involvement has provided the opportunity for me to have direct contact with top executives in the direct selling industry and to become knowledgeable about the practices of many direct selling companies. I cover direct selling in my classes and in the textbooks I have written. Therefore, I am confident in my ability to address the potential impact of the NPR for business opportunities on the direct selling industry.

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Expanding the definition of business opportunities to include direct selling firms will dilute the appropriate focus of the FTC in preventing business fraud. The business opportunity offered by direct selling firms requires minimal initial investment and limited risk. Becoming an independent representative for a direct selling firm typically costs less than \$140 for a starter kit and possibly a small investment in inventory. However, most direct selling firms, and all DSA members, will buy back unused inventory at 90% of the original cost to the consultant. Thus, taking advantage of a direct selling business opportunity represents a small investment and relatively risk-free opportunity for an independent representative. Contrast this with the situation faced by someone purchasing a franchise opportunity. The costs may be in the hundreds of thousands of dollars with most, if not all, of this investment at risk. There is certainly the possibility for deceptive and unfair practices in selling both a direct selling and franchise business opportunity. But, the impact of fraudulent business practices is enormously higher in the franchise

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situation. The focus of the FTC should be on those business opportunities where fraudulent business practices can have the most negative impact. If the FTC expands its focus to include direct selling firms, it will produce minimal benefits and weaken efforts to prevent the selling of fraudulent business opportunities that can have a devastating effect on purchasers.

The costs associated with complying with the business opportunity disclosures would be enormous for direct selling companies and some of the disclosure requirements are not appropriate for the direct selling industry. There are more than 13 million independent representatives in the direct selling industry with hundreds of thousands of representatives in the larger companies. The costs associated with collecting the data and submitting the paperwork necessary for compliance would be excessive. These high costs would severely reduce profits for many existing firms and would impose a large barrier for the entry of new firms. This situation would be devastating to the entire direct selling industry.

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In addition, some of the disclosure requirements are meaningless in the direct selling industry. For example, one of the unique and valuable aspects of the direct selling industry is that independent representatives can develop their businesses to meet their personal needs. Only a small percentage of direct sellers want to operate their businesses on a fulltime basis. The majority work only part time and many move in and out of the business as desired. Thus, data concerning the number of purchasers who have cancelled in the past two years would have no relationship to fraudulent business practices. It would merely represent the personal desires of individual direct selling representatives.

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In sum, my judgment is that the NPR dealing with business opportunities should not include direct selling firms. The costs of compliance far outweigh the minimal benefits in preventing business fraud. The FTC needs to maintain the \$500 or some similar threshold in defining business opportunities. Concentrating on business opportunities in excess of this threshold would focus FTC efforts toward fraudulent business practices that are the most damaging and have the potential to produce the most negative effects on purchasers. The benefits from this type of focused approach are likely to exceed the additional compliance costs to firms offering these business opportunities.

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Thank you for considering my views on this issue.

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Raymond W. LaForge¶
Brown-Forman Professor of Marketing¶
University of Louisville ¶

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